

CHAPTER NO. 835**HOUSE BILL NO. 1302**

By Representatives Hackworth, Cooper, McKee, Roach, Harrison, Montgomery, Brenda Turner

Substituted for: Senate Bill No. 1368

By Senators Crutchfield, Fowler, Graves

AN ACT to amend Tennessee Code Annotated, Title 49 and Title 67, Chapter 4, relative to franchise and excise tax incentives for contributions for educational and low-income housing purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-2006(b)(2), is amended by adding the following as a new subdivision:

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(i) Seventy-five percent (75%) of the value of charitable donations, including those otherwise deductible under any other provision of this part, that are made to a qualified public school support organization and meet all of the requirements of this subdivision.

(ii) For purposes of this subdivision, "qualified public school support organization" means an entity, other than a natural person, that is registered with the department for sales and use tax purposes pursuant to chapter 6 of this title and whose sole purpose is to promote and enhance Tennessee public schools.

(iii) The deduction provided by this subdivision shall apply only in the tax year in which the qualified public school support organization certifies to the taxpayer making the donation that it has spent the donation to purchase goods or services subject to the tax imposed by chapter 6 of this title and upon which such tax has actually been paid. The taxpayer making the donation must maintain a copy of such certification to establish entitlement to the deduction.

(iv) Donations pursuant to this subdivision must be monetary donations and not donations of goods or services.

(v) The taxpayer making the donation shall not designate a specific child as the beneficiary of the donation.

(vi) Qualified public school support organizations receiving such donations must maintain adequate records to prove that the requirements of this subdivision have been met, including proof in the form of invoices or other documentation to establish that the donation was used to purchase goods or services subject to the tax imposed by chapter 6 of this title and that such tax was actually paid.

(vii) If the qualified public school support organization falsely certifies to the taxpayer making the donation that the donation has been spent and tax paid in the manner required by this subdivision, the qualified public school support organization shall be liable for the tax imposed by chapter 6 of this title, including applicable penalties and interest, as if the donation had been spent on items subject to that tax.

(viii) The department of revenue is authorized to share with the department of education information necessary to effectuate the purposes of this subdivision. The department of education shall be bound by restrictions on disclosure of such information otherwise applicable to the department of revenue.

SECTION 2. The commissioner of revenue and the commissioner of education are authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. Seventy-five percent (75%) of the operating and implementation costs of this act from July 1, 2004, to June 30, 2005, shall be satisfied from any increase in local sales tax revenues pursuant to this act and twenty-five percent (25%) of such costs shall be satisfied from any increase in state sales tax revenues pursuant to this act. The operating and implementation costs of this act from July 1, 2004, to June 30, 2005, that are to be satisfied by increases in local sales tax revenues shall be allocated only to counties implementing the provisions of this act.

SECTION 4. For purposes of promulgating rules and regulations, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to tax years beginning on or after July 1, 2004, the public welfare requiring it.

PASSED: May 20, 2004


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 8th day of June 2004


PHIL BREDESEN, GOVERNOR